

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

ANDREW ROYER, )  
 )  
Plaintiff, )  
 )  
-v- ) CASE NO.  
 ) 3:22-cv-00254-JD-MGG  
CITY OF ELKHART, et al., )  
 )  
Defendants. )

The videotaped deposition upon oral  
examination of VICKI E. BECKER, a witness produced and  
sworn before me, Melody M. Goodrich, CM, Notary Public  
in and for the County of St. Joseph, State of Indiana,  
taken on behalf of the Plaintiff at the offices of  
Stewart Richardson & Associates, 1400 East Angela  
Boulevard, Suite 305, South Bend, Indiana, on Tuesday,  
July 18, 2023, at 10:03 a.m., pursuant to the Federal  
Rules of Civil Procedure.

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1 of the complaint -- now if you go to  
2 Exhibit 18 -- let's just go back an exhibit.

3 After receiving a copy of the complaint, you  
4 provided an answer to the complaint, correct?

5 A Through my attorney, yes.

6 Q Okay. And the responses to the complaint and the  
7 answer would be true and correct to the best of  
8 your knowledge and recollection, correct?

9 A I'm sorry. What?

10 MR. CARLISLE: Objection to the form.

11 Q The answer to plaintiff's complaint -- so you  
12 answered every single paragraph of the complaint.

13 The answer to the complaint would be true  
14 and correct to the best of your knowledge and  
15 recollection at the time that you worked on it  
16 with counsel. Fair?

17 MR. CARLISLE: Objection to the form.  
18 Misstates the testimony. She said it was filed  
19 through counsel.

20 You may answer.

21 A I have no reason to disbelieve that it is not  
22 true and correct, but this is not something that  
23 I signed. This was presented by my counsel.  
24 However, he is certainly acting on my behalf.

25 Q This is something that you would have reviewed

1 before it was filed. Fair?

2 MR. CARLISLE: Objection to form.

3 A I believe that I did.

4 Q And fair to say that you take this lawsuit  
5 seriously?

6 MR. CARLISLE: Objection to form.

7 A I don't know what you mean by "seriously."

8 Q Well, is it fair to say that you would never file  
9 something in court that was not a true and  
10 accurate representation?

11 MR. CARLISLE: Objection to form. She said  
12 counsel filed this.

13 A Now I'm completely confused. I asked what you  
14 mean by "seriously," and then you went to a  
15 different topic. Can you help me understand what  
16 you're asking me?

17 Q New question. I'll strike the question.

18 Is it fair to say that you would never  
19 authorize an agent of yours to file something in  
20 court that was not true?

21 MR. CARLISLE: Objection to form.

22 A No, I would not knowingly do that.

23 Q Yeah. And you have been represented by counsel  
24 for the attorney general's office throughout this  
25 proceeding. Fair?

1 inform you that the interrogation was one of the  
2 worst interrogations he had ever witnessed?

3 MR. KIVETZ: Objection. Form.

4 A No.

5 Q Prior to the 2005 trial, is it fair to say that  
6 Mr. Daggy never disclosed his observations and  
7 concerns regarding Mr. Royer's interrogation to  
8 you?

9 MR. KIVETZ: Objection. Form.

10 A That presumes that he had observations and  
11 concerns about it, and so I can't comment on  
12 that. But he never disclosed anything to me in  
13 any way that he had concerns about it.

14 Q If you can focus on Exhibit 18, Ms. Becker.

15 Do you see your response to number 4 --  
16 question 4? It should be the second page of this  
17 document, where it says -- the question is -- or  
18 the allegation is, "The State's manufactured case  
19 against Mr. Royer hinged on three pieces of  
20 fabricated evidence." Do you see that  
21 allegation, ma'am?

22 A I see the allegation.

23 Q And do you see your answer, "Defendants are  
24 without sufficient information to admit or deny  
25 the allegations in paragraph 4 of the complaint"?

1 Do you see that?

2 A I see the answer.

3 Q Is that true?

4 A As we sit here today, no, it's not true at all.  
5 At the time when this was done in a perfunctory  
6 response to a complaint, it was an accurate  
7 answer, I'm sure, by my counsel.

8 Q What are you saying, sitting here today, that  
9 this is not a true answer?

10 MR. CARLISLE: Objection. That misstates  
11 her testimony.

12 A Are you asking me to give up all of the  
13 information in evidence that I believed existed  
14 against Royer and Canen and discuss that with you  
15 during this deposition? Because we're going to  
16 be here a long time if that's what you're really  
17 asking me.

18 Q If that is the case, that you have so much  
19 evidence against Ms. Canen and Mr. Royer, why  
20 haven't you ever re-charged them?

21 MR. KIVETZ: Objection. Form.

22 MR. WILL: Objection as form.

23 A Because of the circumstances that occurred during  
24 the post-conviction proceedings and the opinions  
25 of the Indiana Court of Appeals and of the trial

1 court and because of the disciplinary action that  
2 was taken against Mr. Conway subsequent to all of  
3 this happening and because it has not been  
4 reopened for further investigation to see if  
5 there's independent evidence.

6 Q You had -- it has been 11 years since Ms. Canen's  
7 conviction was reversed and the case was  
8 dismissed. Fair?

9 A I'm sure that that is an accurate statement.

10 Q And it's your testimony that you didn't learn  
11 that Detective Conway had credibility issues  
12 until approximately 2021, around the time of the  
13 Royer appellate opinion, correct?

14 A Detective Conway did not have credibility issues  
15 until that time, to my knowledge, correct.

16 Q And so what's your explanation for why you didn't  
17 retry Ms. Canen between 2012 and 2021?

18 A Because I felt that the issue with the  
19 misidentified fingerprint was very concerning and  
20 problematic, and I did not want to go down that  
21 road again.

22 Q In response to paragraph 5, do you see where it  
23 says, "Included among that fabricated evidence  
24 was an involuntary false confession attributed to  
25 Mr. Royer, which was concocted, manufactured,

1 coerced through hours of illegal interrogation.  
2 During this interrogation, Defendants Conway - at  
3 the behest of other Defendants - used  
4 intimidation and manipulation to obtain a false  
5 and involuntary confession from Mr. Royer." Do  
6 you see that, ma'am?

7 A I do.

8 Q Did you deny that allegation?

9 A I did not deny that. My attorney answered that  
10 we're without sufficient information at the time  
11 that he filed this response, which was a short  
12 period of time after your complaint, and I'm sure  
13 he was still in investigative stages and wasn't  
14 going to commit to anything at that point, which  
15 is pretty normal in the practice of law.

16 Q And sitting here today, you're saying that that  
17 answer is wrong as well, correct?

18 MR. CARLISLE: Objection. Misstates her  
19 testimony.

20 A I'm not saying that the answer is wrong. I'm  
21 saying at the time that this answer was filed,  
22 which was about two and a half months afterward,  
23 that my attorney was not with sufficient  
24 information to answer one way or the other. So  
25 it's a misstatement.

1 Q All right. Let's go to paragraph 8. Do you see  
2 where it says, "Still, no Defendants took any  
3 steps to accommodate Mr. Royer's disability"? Do  
4 you see that, ma'am?

5 A I see that.

6 Q Did you deny that allegation?

7 A It says that we're without sufficient information  
8 to admit or deny the allegations in paragraph 8  
9 of plaintiff's complaint, which is a pretty  
10 normal response in interrogatories done within  
11 two, three months after the complaint was filed  
12 because it's still under investigation.

13 Q Well, your attorneys in 2022 would have surely  
14 been on notice that you were an actual observer  
15 to the interrogation in September of 2003,  
16 correct?

17 MR. CARLISLE: Objection. You're asking her  
18 to speculate.

19 Q Ms. --

20 MR. CARLISLE: You don't need to reveal  
21 privileged communications either.

22 MR. SLOSAR: That's actually a fair  
23 objection, Alex.

24 THE WITNESS: Okay.

25 MR. SLOSAR: I can see that. Let me frame



1 put, Royer did not receive a fair criminal  
2 trial.'" Is that correct?

3 A I do see that.

4 Q You admitted that allegation, correct?

5 A Yes.

6 Q On paragraph 39 -- so this is -- the allegation  
7 is "Mr. Royer had absolutely nothing to do with  
8 this heinous crime."

9 Your answer was that "Defendants are without  
10 sufficient information to admit or deny the  
11 allegation in paragraph 39 of Plaintiff's  
12 Complaint." Is that correct?

13 A I see the question and answer -- or the  
14 interrogatory and the answer, yes.

15 Q And this answer was filed June of 2022, correct?

16 A Yes.

17 Q And so by June of 2022, you didn't believe that  
18 you had sufficient information to state one way  
19 or the other as to whether Mr. Royer had anything  
20 to do with this heinous crime, correct?

21 MR. CARLISLE: Objection. Misstates the  
22 testimony.

23 Q You can answer.

24 A This -- this isn't -- that is not correct.

25 Q It's not true. Another answer that should be

1 changed, ma'am?

2 A No, it should not be changed.

3 MR. CARLISLE: Objection. Argumentative.  
4 Harassing.

5 A At the time that this was answered, my attorney  
6 clearly had not done sufficient investigation to  
7 do anything other than indicate defendants are  
8 without sufficient information to admit or deny  
9 the allegations.

10 That is not something that would be anything  
11 other than what any lawyer would do two and a  
12 half months into the investigation.

13 Q And you were in contact with your attorney at the  
14 time this was filed, correct?

15 MR. CARLISLE: Objection to form. You may  
16 answer as long as you don't disclose privileged  
17 communications.

18 THE WITNESS: Okay.

19 Q I didn't ask for the content of a communication.  
20 What I asked is: You were in contact with your  
21 attorney at the time the answer was filed on your  
22 behalf, correct?

23 A I don't know. I would presume so, but I do not  
24 know. I'm presuming so.

25 Q Certainly you would not want false documents to

1 information to the court when defending a  
2 lawsuit, would you?

3 A Not knowingly.

4 Q And the information provided in any answer on  
5 your behalf would have been true and accurate to  
6 the best of your knowledge and recollection.  
7 Fair?

8 A That's really not a fair statement because an  
9 answer, again, is a preliminary pleading, and it  
10 is done before the discovery process begins. So  
11 when you're asking questions about discovery, the  
12 answer is not part of the discovery process based  
13 upon my understanding. It is the preliminary  
14 answer to the complaint and then the discovery  
15 process begins.

16 During the discovery process is when the  
17 attorney becomes informed about the facts and  
18 circumstances upon which they base their  
19 representation.

20 (Becker Exhibit 20 marked.)

21 Q Ms. Becker, can you turn to Exhibit Number 20,  
22 please. Fair to say that you weren't aware that  
23 you actually filed two answers to the complaint  
24 in this case before today?

25 MR. CARLISLE: Objection to the form.

1 A I would not say that that's true.

2 Q Oh, you knew before coming in here that you filed  
3 two answers to the complaint?

4 A I can't say that that is true. I knew that I was  
5 sued in my professional capacity as well as my  
6 personal capacity. So I would presume that there  
7 were two answers because it's technically two  
8 different defendants.

9 Q Still, you are the same person who is the  
10 defendant, correct?

11 A No. There are two defendants: Me as my  
12 professional capacity, me as my personal  
13 capacity.

14 So I'm kind of confused about what you're  
15 asking me because in my professional capacity,  
16 the office of the prosecuting attorney, I don't  
17 believe is any longer a -- a defendant. But me  
18 in my personal capacity, I am. Maybe I'm  
19 mistaken.

20 MR. CARLISLE: Can I ask a preliminary  
21 question --

22 Q I think -- I think --

23 MR. CARLISLE: -- for an objection?

24 Q -- you are misunderstanding.

25 MR. SLOSAR: What's the preliminary

1 accommodation was necessary." Is that correct?

2 A Yes.

3 Q And that's -- that's a truthful and accurate  
4 statement that you've filed here with the court,  
5 right?

6 MR. CARLISLE: Objection. I think this is a  
7 nuance of the term "accommodation," so you're  
8 getting into legal conclusions here. Objection  
9 to form.

10 You can answer.

11 THE WITNESS: Thank you.

12 A That is my answer to this interrogatory.

13 Q And is it true?

14 A Yes.

15 Q It's your testimony that Mr. Royer -- or sorry.

16 It's your testimony that Mr. Royer did not  
17 have a disability, correct?

18 A The way that this question is asked, disability  
19 is being interpreted by me to be a -- a -- a  
20 diagnoses that hits a certain level, I suppose;  
21 for example, the person is officially blind, is  
22 officially deaf, is a certain type of disability.

23 So with the way that this question is  
24 phrased, it is an accurate answer.

25 Q Ms. Becker, isn't it true that Mr. Royer has a

1 very serious mental disability?

2 MR. CARLISLE: Objection to form.

3 MR. KIVETZ: Objection. Form.

4 A You're going to have to specify what you mean as  
5 a very serious mental deficiency.

6 Q I didn't say "deficiency."

7 A I'm sorry.

8 Q I said "disability."

9 A Disability.

10 Q Yep.

11 A You're going to have to define what you mean by  
12 that.

13 Q Ms. Becker, in this answer, you actually said,  
14 "Defendant Becker denies that Plaintiff had a  
15 disability or that an accommodation was  
16 necessary." That was your answer to allegation  
17 105, correct?

18 A That is my answer to 105, yes.

19 Q Okay.

20 A And I'm still trying to understand what you mean  
21 by a very serious mental disability.

22 Q You know what? I'm not going to answer your  
23 question because I'm the attorney asking  
24 questions here today, Ms. Becker.

25 But what I am going to do is refer you to

1 Exhibit 77. We're going to hand that to counsel,  
2 and I'll provide this to you once your counsel  
3 has a copy of this.

4 (Becker Exhibit 77 marked.)

5 Q Do you recognize this document, Ms. Becker?

6 A It's a one-page document that appears to be a  
7 cover page of the reporter's transcript of  
8 proceedings. So it's just one --

9 Q Why don't you turn to the next page.

10 A -- oh, I'm sorry -- two pages.

11 Q And looking at the next page, do you recognize  
12 that, Ms. Becker?

13 A Yes.

14 Q That's you at Mr. Royer's sentencing proceeding,  
15 correct?

16 A It is.

17 Q And you informed the Court at Mr. Royer's  
18 sentencing proceeding, "As for mental disability,  
19 the State of Indiana does recognize that  
20 Mr. Royer does have a mental disability, a very  
21 serious mental disability; however, we believe  
22 that [it] is mitigated slightly by the fact that  
23 he chose from time to time not to take his  
24 medication." Is that what you informed the  
25 Court?

1 A Yes.

2 Q So in 2005, you informed the Court at the  
3 sentencing that the State of Indiana does  
4 recognize that Mr. Royer does have a mental  
5 disability, correct?

6 A Yes.

7 Q You characterized it as a very serious mental  
8 disability, correct?

9 A Yes.

10 Q But when you get sued and the allegation is that  
11 you're watching a disabled person get  
12 interrogated, you answer the complaint,  
13 "Defendant Becker denies that Plaintiff had a  
14 disability or that an accommodation was  
15 necessary," correct?

16 MR. CARLISLE: Objection to form. Misstates  
17 evidence. Argumentative.

18 You can answer.

19 THE WITNESS: Thank you.

20 A Again, I was trying to ask you what you mean by a  
21 disability. Those are terms of art, very  
22 clearly.

23 I am meaning something during my sentencing  
24 argument after receiving a significant amount of  
25 information. And when I read your interrogatory,



1 even here today --

2 Q That's the complaint.

3 A -- there are --

4 Q That's the complaint.

5 A Oh, I apologize. This is the answer to the  
6 complaint.

7 Again, when you are not putting things in  
8 context, it's very difficult to understand what  
9 you mean by terms. And based upon the way that  
10 you have been treating me in the time that we  
11 have been associated, I don't trust that you and  
12 I are speaking the same language. So when I ask  
13 can you please clarify what you mean, I'm not  
14 trying to be difficult. I'm trying to understand  
15 what you mean.

16 I am not suggesting by any stretch of the  
17 imagination that the statement I made during  
18 sentencing is inconsistent with the statement in  
19 the answer. They are different contexts and  
20 different applications.

21 Q Which court were you misinforming, the sentencing  
22 court in 2005 when you told that court that  
23 Mr. Royer has a very serious mental disability,  
24 or the district court judge here when you  
25 informed him that plaintiff had no disability at

1 all?

2 MR. CARLISLE: Objection. Argumentative.

3 Q You can answer.

4 A I was not misinforming any court. These are two  
5 different uses of the word, and clearly you want  
6 to spin them different ways in order to make it  
7 look like I'm giving inaccurate information. So  
8 we're not speaking the same language, very  
9 clearly.

10 Q Ms. Becker, go to 115, please, of Exhibit 18, the  
11 answer. In that allegation, do you see where it  
12 says, "During the interrogation, Defendants  
13 observed that Mr. Royer had great trouble  
14 understanding and comprehending what was taking  
15 place." Do you see that?

16 A I see that.

17 Q And did you deny that?

18 A I did.

19 Q You did not say that you lack sufficient  
20 information to form a belief as to the truth of  
21 material allegations in the paragraph. You  
22 flatly denied it. Correct?

23 A Well, my attorney flatly denied it, yes, and that  
24 was based upon conversation that we had. And he  
25 believed that it was appropriate to give this

1 answer, which I don't disagree with.

2 Q And you would have agreed with that answer even  
3 knowing what Detective Conway put in his  
4 investigative report regarding Mr. Royer's  
5 well-being, correct?

6 MR. CARLISLE: Objection to form.

7 A I don't under- -- I don't understand what you're  
8 asking me about what Mr. Conway put in his  
9 report.

10 Q I'm going to ask for you to turn to Exhibit 31.

11 MR. KIVETZ: Do we have 31?

12 MS. EK: I think we already have it. Let me  
13 check.

14 MR. KIVETZ: What is it?

15 MR. SLOSAR: Yeah, I think 31 is the one  
16 that had Porter at the top.

17 MS. EK: Yeah, you guys should have 31.

18 MR. KIVETZ: Just give me one second. It's  
19 a pretty large pile here.

20 MR. SLOSAR: And -- sorry, Jeff.

21 Q When you look for this, I'm referring to -- has a  
22 190 in the bottom right. It's actually the third  
23 total page of this exhibit.

24 A Just a minute then.

25 Q At the bottom.

1           that the answer was filed, as I'm sure that he  
2           was continuing to do investigation.

3       Q     You would acknowledge that that answer to that  
4           specific allegation conflicts with what  
5           Detective Conway wrote in his own investigative  
6           report. Fair?

7           MR. CARLISLE: Objection to form.

8           MR. KIVETZ: Objection. Form.

9           MR. CARLISLE: Misstates evidence.

10       A     I would not agree with that.

11       Q     You think it's consistent, right, Ms. Becker?

12       A     I would not agree with that.

13       Q     You're not going to agree with anything I ask  
14           you?

15           MR. WILL: Objection as to form.

16       Q     I asked you whether --

17       A     Mr. --

18       Q     -- it conflicted or whether it was consistent.

19           MR. CARLISLE: Argumentative.

20       Q     I just -- and you're saying you don't agree with  
21           either; is that right?

22       A     Are you ready for me to answer?

23       Q     You know what? I'm going to strike the question.  
24           You're right. This is a waste.

25           Why don't we look at paragraph 131 of

1 Exhibit 20. Are you there?

2 A I am.

3 Q All right. So this allegation alleges "Defendant  
4 Becker and the Police Officer Defendants had been  
5 in frequent contact during the investigation that  
6 predated Mr. Royer's interrogation.

7 Defendant Becker did so in an investigative  
8 capacity." Is that right?

9 A That's what it asks.

10 Q You deny this allegation, correct?

11 A I did.

12 Q Now why don't you go -- actually, I'm going to  
13 show you my Exhibit 18. I'm going to go to 131.  
14 You keep 131 open on yours. I'm going to give  
15 you my binder.

16 And in 131 of your first answer, did you  
17 state "Defendants admit contact was made between  
18 Vicki Becker in her role as an Elkhart County  
19 Deputy Prosecutor and the Police Officer  
20 Defendants"?

21 A That's not the whole answer. So the whole answer  
22 is my answer. "Defendants deny the remaining  
23 allegations in paragraph 131 of Plaintiff's  
24 Complaint."

25 Q You stated that, correct?

1 A My attorneys stated that.

2 Q You did not state you denied it, right?

3 A No. My attorneys stated "Defendants admit  
4 contact was made between Vicki Becker in her role  
5 as an Elkhart County Deputy Prosecutor and the  
6 Police Officer Defendants. Defendants deny the  
7 remaining allegations in paragraph 131 of  
8 Plaintiff's Complaint."

9 Q You know what? Let's go to paragraph 130, then,  
10 of both. In your second answer, isn't it true  
11 that you denied that -- that "Defendant Vicki E.  
12 Becker, then an Elkhart County deputy prosecutor,  
13 joined Defendants Daggy, Snider, and Converse in  
14 watching the interrogation through the  
15 closed-circuit monitoring system"?

16 A Yes. My attorney filed the answer to 130,  
17 "Defendant Becker denies," but yet in 130, which  
18 was filed about six months prior, it was a  
19 partial admission.

20 Q And the partial admission was that you --  
21 "Defendants admit that Vicki E. Becker, then an  
22 Elkhart County deputy prosecutor, watched the  
23 interrogation through the closed-circuit  
24 monitoring system at certain points of the  
25 interrogation." That was the admission, correct?

1 A Yes, which is distinctly different than what was  
2 asked in the "joined" part in the question, and  
3 that seems to be probably what the difference is,  
4 is one lawyer wanted to deny that and the other  
5 thought that it was appropriate to partially  
6 answer.

7 So I honestly can't answer why my lawyers  
8 chose two different paths, but they're both  
9 consistent to the extent that I didn't join  
10 anybody. I was doing what I needed to do for my  
11 evaluation process.

12 Q You participated -- well, let me strike that.

13 You were present for certain parts of the  
14 interrogation of Mr. Royer on September 3rd,  
15 2003, and September 4th, 2003, correct, ma'am?

16 A I was present for certain parts of the interview  
17 portion and the interrogation portion of the  
18 interview with Mr. Royer on the 3rd and the 4th,  
19 to the best of my knowledge.

20 Q The first time you reviewed -- or publicly  
21 divulged that information was during a media  
22 interview with Richard Bodee, correct?

23 MR. CARLISLE: Objection to form.

24 A Publicly? What do you -- do you mean, like --  
25 what do you mean by "publicly"?